

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

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|----------------------|---|------------------------------------|
| JOSEPH DEBIASI, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 5:22-cv-294 (MTT) |
| |) | |
| CARDINAL PIZZA, LLC, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

ORDER

On February 21, 2023, plaintiff Joseph Debiasi moved for default judgment against defendant Cardinal Pizza. Doc. 19. Debiasi alleges two counts in his complaint: (1) an individual claim for Fair Labor Standards Act (“FLSA”) minimum wage and overtime violations, and (2) a collective action claim for FLSA minimum wage and overtime violations. Doc. 1 ¶¶ 57-71. But based on Debiasi’s motion for default judgment, it appears he is requesting recovery only for a part of count one. Doc. 19-1. He does not assert, or request damages for, an overtime pay violation, and he apparently dropped his collective action claim altogether. See *generally* Docs. 19-1; 19-3. In a perfunctory manner, Debiasi only asserts, and requests damages for, FLSA minimum wage violations based on Cardinal Pizza’s failure to reimburse Debiasi for mileage using the Internal Revenue Service (“IRS”) standard business mileage rate. Docs. 19-1 at 4-7; 19-3 at 1.

Debiasi is **ORDERED** to submit a supplemental brief by **March 30, 2023** explaining and/or identifying:

1. Whether he is foregoing his collective action claim;

2. Whether he is foregoing his overtime claim;
3. The amount of tips he received between July 2020 and December 2020;
4. Why FLSA's three-year statute of limitations under 29 U.S.C. § 255(a) should apply;
5. Whether employers, under FLSA, are required to use the IRS standard business mileage rate when reimbursing for mileage, and if they are, whether the failure to do so results in a FLSA minimum wage violation;
6. Whether he can rely on averages to prove damages; and
7. Any other information required for the Court to be able to determine "whether the unchallenged facts constitute a legitimate cause of action" and whether "there is a legitimate basis for" his requested damage award. *Johnson v. Rammage*, 2007 WL 2276847, at *1 (M.D. Ga. Aug. 7, 2007); *Anheuser Busch, Inc., v. Philpot*, 317 F.3d 1264, 1266 (11th Cir. 2003).

SO ORDERED, this 16th day of March, 2023.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT